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AGENDAS/MINUTES
LICENSING COMMITTEE
CITY OF HAMILTON

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City of Hamilton

AGENDA

LICENSING COMMITTEE

Wednesday, January 15, 2003

5:00 p.m.

Committee Room 264
Hamilton City Hall
71 Main Street West
Hamilton, Ontario

1. DECLARATION OF INTEREST

2. APPROVAL OF MINUTES

2.1 November 20, 2002

3. DELEGATION

3.1 Jagtar Chalal, President, Cooptaxi re Proposed Promotional Activity

4. PRIVATE & CONFIDENTIAL AGENDA

Show Cause Hearings:

4.1 Taxi Cab Driver Licence Application – Mohamed Abdelrahman A.

4.2 Taxi Cab Driver Licence Application – Asarhadoun Kattina

(Confidential background material available at meeting)

5. ITEM REFERRED FROM PREVIOUS MEETINGS

5.1 Royal Canadian Legion Branch 58 Lottery Requirements (referred from November 20, 2002 Licensing Committee Meeting) - Information Report to follow

6. OTHER BUSINESS

7. ADJOURNMENT



City of Hamilton Licensing Committee MINUTES

Wednesday, November 20, 2002

5:00 p.m.

Room 110, Hamilton City Hall
71 Main Street West, Hamilton

Present: Councillors S. Merulla, D. Mitchell, B. Kelly

Regrets: N. Desjardins, R. Nairn

Also Present: D. Beck, Legal
D. Rose, J. Downey - Building
S. Glover, City Clerk's Office

Councillor Sam Merulla, (Chairperson) called the meeting to order.

THE FOLLOWING ITEMS WERE REPORTED TO COMMITTEE OF THE WHOLE:

1. Darcy McLean – Building Repair Contractor and Master Licence (Item 3.1.1)

(Mitchell/Kelly)

That the Building Repair Contractor and Master Licence application of Darcy McLean be denied.

CARRIED

2. Visions Adult Entertainment Emporium, 1038 Barton Street East – Request to Increase Hours of Operation (PD02247)(City Wide)(Added Item 6.1)

(Kelly/Mitchell)

That the request to increase the hours of operation of the Visions Adult Entertainment Emporium located at 1038 Barton Street East, Hamilton, to be open on Sundays, be denied.

CARRIED

FOR INFORMATION PURPOSES:

(a) Declarations of Interest (Item 1)

None

(b) Approval of Minutes (Item 2)

(Kelly/Mitchell)

The Minutes of Meeting held September 18, 2002 were adopted as presented.

CARRIED

(c) Show Cause Hearings - In Camera (Item 3.1.1)

(Mitchell/Kelly)

The Committee moved in camera to hold a Show Cause Hearing

CARRIED

(Kelly/Mitchell)

The Committee moved out of camera

CARRIED

Resuming in open session, the Committee recommended to Committee of the Whole that the Building repair Contractor and Master Licence application of Darcy McLean be denied.

(d) Proposed Schedule for 2003 Licensing Committee Meetings (Item 4.1)

(Kelly/Mitchell)

That the following schedule be adopted for 2003 Meetings of the Licensing Committee:

January 15, March 19, May 21, August 6 and October 22. Meetings in June and July will be at the call of the Chair. All Meetings will be held in Committee Room 264 at 5 p.m. on Wednesdays.

CARRIED

(e) Visions Adult Entertainment Emporium, 1038 Barton Street East – Request to Increase Hours of Operation (PD02247)(City Wide) (Added Item 6.1)

The Committee recommended to Committee of the Whole that the request to increase the hours of operation of the Visions Adult Entertainment Emporium located at 1038 Barton Street East, Hamilton, to be open on Sundays, be denied.

(f) Public Garage Licence at 928 Brock Road (Added Item 6.2)

In response to a letter from the appellant's lawyer, Manfred Rudolph, the Committee directed that a Show Cause Hearing be rescheduled with regard to the Public Garage Licence at 928 Brock Road subject to the recommendation of Mr. Tice, the lawyer representing the City.

(g) **Royal Canadian Legion Branch 58 (Item 6.3)**

Representatives of Royal Canadian Legion Branch 58 attended to express concerns with the requirement to obtain a blanket licence for all draws held by their Legion Branch. A petition signed by branch members was produced, requesting that the branch be allowed to keep a larger percentage of the profits as the amount retained by the branch under the present system is minimal.

The Committee noted that the Legion carries out charity work, both for veterans and their families, as well as extensive work in the Community. Legion Branches throughout the country are presently faced with escalating maintenance costs etc. while, due to the ageing population, their membership is dwindling.

The Committee directed staff to report back to the Committee in January in this regard, and suggested that the Legion may wish to petition their MPP to lobby for changes to the Provincial rules.

(h) **Adjournment (Item 7)**


(Mitchell/Kelly)

The Licensing Committee adjourned at 5.25 p.m.

CARRIED

**Councillor Sam Merulla, Chairperson,
City of Hamilton Licensing Committee**

**Stella Glover, Legislative Assistant,
November 20, 2002**



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1555 KING STREET EAST
HAMILTON, ON L8K 1T3

PHONE (905) 525-2500
FAX (905) 549-8604

December 12th, 2002

Mr. Sam Merrulla, Chairman
Licensing Committee
City of Hamilton
c/o Ms. Stella Glover
Secretary to the Committee
71 Main Street West
Hamilton, ON L8P 4Y5

Telephone : 905.546.3993

By Facsimile : 905.546.2095

Dear Mr. Chairman and Members of the Committee,

It has come to our attention that our proposed promotional activity of \$1.00 off Coupons for a 'limited time' use should receive the attention of and sanction by the Committee. I must assure the Committee that would never be the intention of Hamilton Co-Operative Taxi Inc. to be out of compliance with the Licensing Code By-law # 98-203, hereinafter referred as the By-law.

'Schedule 2, Part 9 Promotional Schemes', of the By-law states that "No taxi cab broker, taxi cab owner or taxi cab driver shall participate or acquiesce in any promotional scheme whose object or goal is to directly or indirectly subsidize the rates or fares prescribed in this Schedule, without the written consent of the Licensing Committee."

Other competitive local companies governed by the same By-law have offered discounted or promotional rates, most likely also approved by your Committee. As a matter of reference, we attaching a copy of a competitor's discount coupon as our Exhibit "A".

We respect to the By-law, we are formally asking for leave to pursue a discount promotion of a \$1.00 discount per fare with a coupon available to all customers, without restrictions, giving everyone complete, fair and unfettered access to the promotion at all times.

As Co-Op Taxi is becoming an active business contributor to and participant in the community, we are not only giving special attention to Business Corporate Clients but we are including Charities, Non-Profit Organizations and disadvantaged individuals in our offerings and promotions. We are positive that it not the intention of the Committee to prohibit a \$1.00 discount to constituents such as 'Abused Women', 'Disabled Consumers', 'Fixed Income Groups' and 'Students', as well as the already legislated 10% to Senior Citizens which we are actively and openly marketing without hesitation or restriction.

.../2

It is our intention and submission for approval to offer the promotional coupon for a period of six (6) months from January 15th, 2003 until July 15th, 2003.

We respectfully ask that this matter be brought before the Committee at its next meeting on January 15th, 2002.

Respectfully submitted,
HAMILTON CO-OPERATIVE TAXI INC.

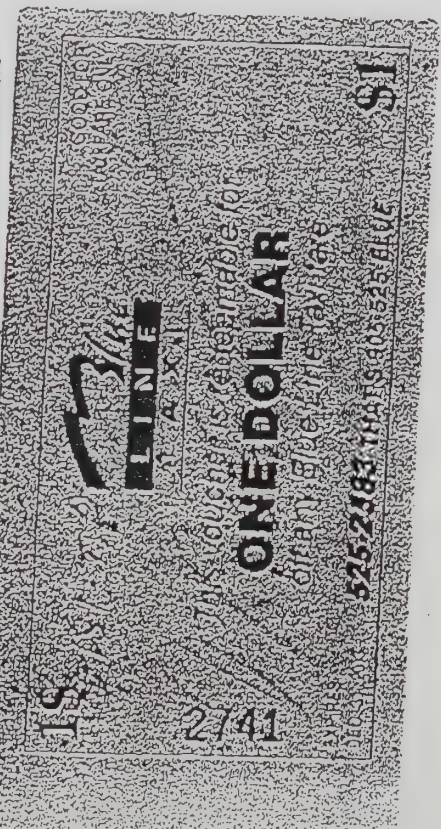
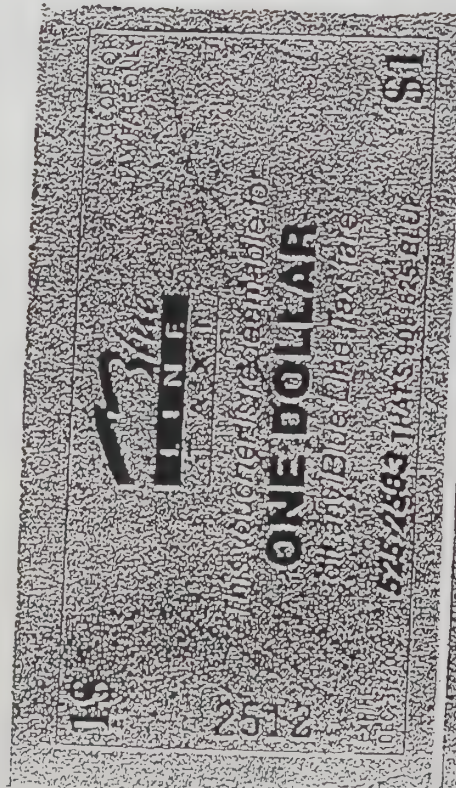
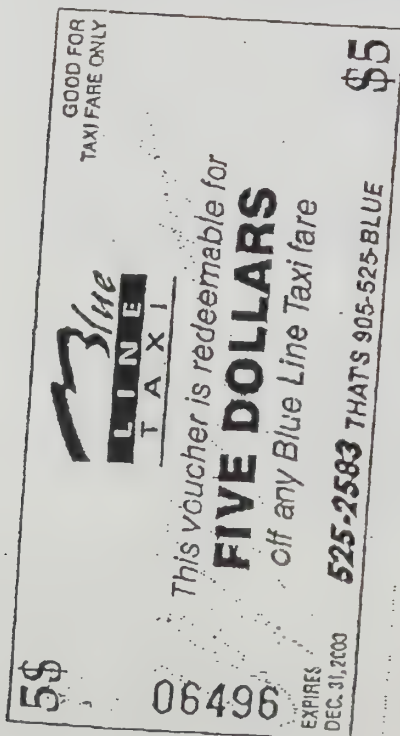
Jagtar Singh Chahal

Mr. Jagtar Chahal, President
and the Board of Directors

BKO:mw

Copy to : Councillor Bill Kelly
Councillor Dave Mitchell

EXHIBIT "A"





Hamilton

Dept. Name

Municipal Librarian,
Hamilton Public Library

Memorandum

Date: January 14, 2003

To: Chairman and Members,
City of Hamilton Licensing Committee

From: Stella Glover,
Secretary,
City of Hamilton Licensing Committee

Re: Royal Canadian Legion – Eligible Use of Lottery Proceeds (City Wide)

Attached for your attention is a copy of a report respecting the Royal Canadian Legion – Eligible Use of Lottery Proceeds (City Wide) which is listed on the January 15, 2003 Licensing Committee Agenda as Item 5.1 (to follow).

CITY OF HAMILTON

5.1


*Finance and Corporate Services Department
City Clerk's Division*

Report to: Chairman and Members, City of Hamilton Licensing Committee	Submitted by: Kevin Christenson, City Clerk
Date: January 7, 2003	Prepared by: Darryl Lee 540-5434

SUBJECT: Royal Canadian Legion - Eligible Use of Lottery Proceeds (City Wide)

RECOMMENDATION:

That Information Report No. 03-01 respecting the eligible use of lottery proceeds by Royal Canadian Legion Branches be received.



Kevin Christenson, City Clerk
Finance & Corporate Services

BACKGROUND:

At its meeting held November 20, 2002 representatives of Royal Canadian Legion Branch No. 58 attended the Licensing Committee to express concerns relating to the requirement to obtain a Municipal License for certain lottery events, as well as the allowable use of proceeds from lottery events. This Information Report will address these and other general issues surrounding the use of lottery proceeds by Branches of the Royal Canadian Legion.

Regulatory Framework

An Order in Council of the Provincial Government provides each Municipal Council the authority to issue licences to charitable or religious organizations to conduct and manage lottery schemes/events in accordance with standard terms and conditions. Subsequently the Lottery Licensing Policy Manual issued by the Ministry of Consumer and Commercial Relations provides common provisions relating to the eligibility to conduct lottery events and use of lottery proceeds for all Royal Canadian Legion Branches in Ontario.

SUBJECT: Royal Canadian Legion - Eligible Use of Lottery Proceeds (City Wide)
- Page 2 of 5

Each local Municipal Council has the authority to develop criteria for administering lottery licensing in their Municipality, provided that any such policies and criteria do not conflict with those issued by the Province.

For lottery licensing purposes, Branches and Commands of the Royal Canadian Legion are dealt with in the same manner as general Service Clubs. As a result guidelines governing the use of lottery proceeds by Service Clubs are applied to Branches of the Royal Canadian Legion.

Section 206 of the Criminal Code of Canada makes it an indictable offence to participate in an unlicensed lottery scheme in any manner. Section 207 subsequently provides an exemption for charitable and religious organizations to conduct lottery schemes provided that they are issued a license by the appropriate licensing authority.

Non-Profit-Not Charitable Organizations which raise funds for other charitable and religious organizations or purposes are eligible to be licensed for lottery events. Service Clubs and Branches of the Royal Canadian Legion are eligible for licensing on this basis.

The City of Hamilton licences eligible religious and charitable organizations to conduct various types of raffles, bazaars, bingo events and the sale of break open tickets.

Eligible Use of Lottery Proceeds

Pursuant to the Lottery Licensing Policy Manual Branches of the Royal Canadian Legion are only able to use funds for projects that are consistent with the objects and purposes of the organization. This would include donations to other eligible charitable or religious organizations or for other charitable purposes that include the relief of poverty, the advancement of education, the advancement of religion and other purposes beneficial to the community.

Service Clubs and Branches of the Royal Canadian Legion may also utilize up to 2% of the net proceeds of a lottery event for maintenance and upkeep of their premises if the premises is being used free of charge by other community organizations that have charitable objects and activities. This provision was updated in 2000 to provide for an increased percentage of lottery funds to be retained for building maintenance and upkeep if it could be demonstrated that other charitable organizations are utilizing the facility free of charge more than 2% of the time. Therefore, the amount allowable for maintenance and upkeep could be increased in excess of 2% upon approval of the local licensing authority based upon facility usage.

One additional provision allows Branches of the Royal Canadian Legion who are selling Break Open Tickets from their own premises to pay themselves a maximum of 10% of gross proceeds as rent. Administrative expenses (ticket costs, honorariums, shortages) must be paid out of this 10%. Royal Canadian Legion Branch No.58 is currently licensed to sell Break Open Tickets from their own premises and subsequently may take advantage of the 10% rent provision.

Legion Branch No. 58 – Licensing History

Royal Canadian Legion Branch No. 58 currently holds a Break Open Ticket License issued by the City of Hamilton and routinely receives raffle licenses for various fundraising events.

As previously noted in the case of the Break Open Ticket License, Branch No. 58 may take advantage of the 10% of gross proceeds provision payable to themselves as rent by virtue of selling tickets from their own premises.

It is our understanding based on documents contained in the lottery licensing file of Branch No. 58 that the Branch currently rents out their premises for a fee to other charitable and religious organizations. As such, they may only retain up to 2% of the net proceeds of lottery events held for maintenance of club premises.

Issues, Options and Alternatives

It is our assumption that the focal point of the Legion's concerns surround the inability to retain a greater percentage of lottery licensing proceeds for facility and Legion related costs. To help illustrate this concern we can analyze the proceeds from the sale of one box of break open tickets at the Legion's premises:

Gross proceeds:	\$ 1,365
Total prize payout	<u>- 930</u>
Net revenue	<u>\$ 435</u>

10% of gross proceeds = \$ 136.50 (less ticket costs \$58.01) = \$ 78.49

Therefore the Branch could retain \$ 78.49 as rent payable to themselves.

The provision to allow Legion's to retain 2% of the net proceeds for maintenance of club premises would yield an additional \$8.70.

Provincial Guidelines for use of lottery licensing proceeds as it applies to Service Clubs have been established on the premise that for the most part funds raised through lottery licensing should flow through in the form of contributions to other charitable or religious organizations. It is therefore essential that Service Clubs and Branches of the Royal Canadian Legion continue to have in place other fundraising initiatives contributing funds to a general account which could be used to cover more extensive facility and Legion related costs.

The City of Hamilton in its role as Municipal Licensing Authority, has no alternative but to ensure that licensed organizations operate within the confines of the Lottery Licensing Policy Manual established by the Province of Ontario. No Municipal Licensing authority has the option of waiving or amending certain regulations contained in the Policy Manual.

SUBJECT: Royal Canadian Legion - Eligible Use of Lottery Proceeds (City Wide)
- Page 4 of 5

There are potential options available to the Legion by which to address some of their concerns:

- Royal Canadian Legion Branch No.58 could discontinue the practise of charging organizations rent for the use of the Legion's facility thus allowing them to retain in excess of 2% of net proceeds from lottery events for maintenance of club premises. The Branch may determine however, that the amount of rent that they would forego in this situation would be more than could be generated by increasing the percentage of lottery funds that could be retained for maintenance of club premises.
- Royal Canadian Legion Branch No.58 could join with other Branches and lobby the Provincial Command of the Legion to petition the Province of Ontario and the Alcohol and Gaming Commission for Ontario for changes to Municipal Lottery Licensing Guidelines. Potential changes could provide for greater flexibility in the use of lottery proceeds by Branches of the Royal Canadian Legion. At the local level Branches could petition their local Members of Provincial Parliament for similar legislative changes.

At the present time the Alcohol and Gaming Commission for Ontario is in the process of revising the Lottery Licensing Policy Manual and Guidelines for use by Ontario Municipalities. The Royal Canadian Legion Branch No. 58 may find a request of the Provincial Command to address these issues with the AGCO particularly effective at this point in time.

Representatives of the Office of the City Clerk are available to discuss these issues with Branch No.58 representatives at any time.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Under the authority provided to it under the Order in Council of the Province of Ontario the City of Hamilton must comply with established Regulations and Policies for licensing of lottery events within the Municipality.

POLICIES AFFECTING PROPOSAL:

Authority for licensing lottery events in the Province of Ontario is provided for in Section 206 and 207 of the Criminal Code of Canada, an Order in Council established by the Province of Ontario, applicable provisions of the Gaming Services Act and City of Hamilton Lottery Licensing By-law 98-204 as amended.

CONSULTATION WITH RELEVANT DEPARTMENTS/AGENCIES:

In preparation of this Report consultation was undertaken with representatives of the Alcohol and Gaming Commission for Ontario.

SUBJECT: Royal Canadian Legion - Eligible Use of Lottery Proceeds (City Wide)
- Page 5 of 5

CITY STRATEGIC COMMITMENT:

This report is consistent with the following goal of the City's Strategic Plan, specifically;

A Great City in Which to Live – By ensuring the provision of quality municipal services.

.cc Mr. John Clarke
President, Royal Canadian Legion Branch No.58
720-75 Barlake Avenue
Hamilton, Ontario
L8E 1G8

CONFIDENTIAL

The purpose of this document is to provide information regarding the project and to ensure that all stakeholders are aware of the current status and any changes that may occur.

It is the policy of the organization to maintain the confidentiality of all information and to ensure that all data is protected and secure.

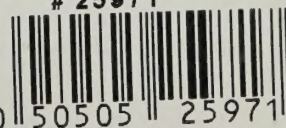


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